



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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**CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON
MORTGAGE BANKERS ASSOCIATION PETITION FOR EXEMPTION FROM THE PRIOR
EXPRESS CONSENT REQUIREMENT FOR AUTODIALED AND PRERECORDED CALLS
TO WIRELESS NUMBERS**

CG Docket No. 02-278

Comment Date: September 2, 2016

Reply Comment Date: September 19, 2016

The Mortgage Bankers Association (MBA) has filed a petition¹ seeking an exemption from the prior express consent requirement under the Telephone Consumer Protection Act (TCPA)² for autodialed or prerecorded “mortgage servicing” calls³ made to wireless numbers that are not charged to the called party and do not contain an advertisement or constitute telemarketing. MBA notes that the TCPA authorizes the Commission to exempt autodialed or prerecorded calls to wireless numbers when the called party is not charged, subject to conditions designed to protect consumer privacy, and that the Commission has exercised this authority with respect to certain communications made by package delivery services, healthcare providers, and financial institutions.⁴ MBA states that mortgage servicing calls are required by

¹ See *Petition of Mortgage Bankers Association for Exemption*, CG Docket No. 02-278 (filed June 16, 2016) (MBA Petition).

² The TCPA, *inter alia*, requires prior express consent before making an autodialed, artificial voice, or prerecorded call to a wireless telephone number, unless the call is for an emergency purpose or solely for the purpose of collecting a debt owed to or guaranteed by the United States. 47 U.S.C. § 227(b)(1)(A).

³ MBA defines “mortgage servicing” as “all actions, including all communications, related to the receipt and application of payments pursuant to the terms of any loan or security agreement, execution of other rights and obligations owed under the loan or security agreement, the modification of any terms of the loan or security agreement, and any other loss mitigation options.” See MBA Petition at 13.

⁴ *Id.* at 3. The TCPA authorizes the Commission, by rule or order, to exempt from this requirement calls “that are not charged to the called party, subject to such conditions as the Commission may prescribe as necessary in the interest of the privacy rights this section is intended to protect.” See 47 U.S.C. § 227(b)(2)(C). The Commission has exercised this authority in certain limited instances. See, e.g., *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, WT Docket No. 07-135, Declaratory Ruling and Order, 30 FCC Rcd 7961, 8023-32, paras. 125-148 (2015) (exempting certain time-sensitive financial and healthcare calls); *Cargo Airlines Association Petition for Expedited Declaratory Ruling*, CG Docket No. 02-278, Order, 29 FCC Rcd 3432 (2014).

various federal and state requirements, and are of critical importance to mortgage borrowers.⁵ We seek comment on these and any other issues raised in this petition.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁶ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that

⁵ MBA Petition at 6-11.

⁶ 47 CFR §§ 1.1200 *et seq.*

proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

FOR FURTHER INFORMATION CONTACT: Richard D. Smith, Consumer and Governmental Affairs Bureau, Federal Communications Commission, (717) 338-2797 (voice) or Richard.Smith@fcc.gov.

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